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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,494	12/13/2000	Nikolich Zugich	MSK.P-042	2225
21121	7590	09/21/2004	EXAMINER	
OPPEDAHL AND LARSON LLP			DIBRINO, MARIANNE NMN	
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DILLON, CO 80435-5068			ART UNIT	PAPER NUMBER
			1644	

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/719,494

Applicant(s)

ZUGICH ET AL.

Examiner

DiBrino Marianne

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: 14.

Claim(s) rejected: 1-4, 9, 11-13 and 16.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

*Marianne DiBrino*

Continuation of 3. Applicant's reply has overcome the following rejection(s): the rejection of record of claim 2 under 102(a) as being anticipated by Dyll et al; and the rejection of record of claims 2 and 4 under 103(a) as being unpatentable over Dyll et al, in view of Anderson et al and Yewdell et al.

Continuation of 10. Other: The rejection under 102(b) as anticipated by WO 95/29193 stands for the reasons of record in the final office action. The rejection under 102(b) as anticipated by Lipford et al stands because in response to Applicant's arguments that that Lipford et al do not teach that the peptide is expressed on tumor cells, the Examiner directs Applicant to page 301 column 1 paragraph 1 of Lipford et al for the teaching that CTL specific for the altered peptide recognized cells transfected with the E6 gene, i.e., that express the unaltered peptide, that it was processed and transported to the cell surface. With regard to Applicant's arguments to the rejection under 102(a) as being anticipated by Huard et al, i.e., that the said reference does not teach induction of a cellular immune response to a target peptide that is expressed in tumor cells of the subject and that is non-immunogenic when expressed, the said rejection stands for the reasons of record. The 103(a) rejections of record at items 12, 13 and 14 stand for the reasons of record.



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